

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed Emergency After Notice

Rule making related to sports tourism program

The Enhance Iowa Board hereby amends Chapter 215, “Sports Tourism Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15F.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 15F.401 and 15F.402 and 2021 Iowa Acts, House File 862.

Purpose and Summary

2021 Iowa Acts, House File 862, amends Iowa Code sections 15F.401 and 15F.403 relating to the Sports Tourism Program administered by the Board. The purpose of the program is to provide financial assistance for projects that promote sporting events.

The legislation updates the program to allow assistance for projects that promote professional sporting events and exclude infrastructure as an eligible expenditure. The amended statute also limits assistance to 50 percent of the total cost of the project with a maximum award amount of \$500,000.

These amendments reflect the changes made to the Iowa Code and reflect the legislative intent in updating the program. These amendments also clarify administrative aspects of the program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5988C**. No public comments were received.

There are changes from the Notice. Subrule 215.3(2) was stricken and subsequent rules were renumbered because the language was duplicated in subrule 215.3(3), which was renumbered as 215.3(2). A reference to 2021 Iowa Acts, House File 588, has been removed from the implementation sentence since the amendments in the legislation will be codified by the time the rule making becomes effective.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on December 2, 2021, because the rule making implements a previously unfunded program for the benefit of Iowa cities, counties, and public organizations that promote sporting events.

Adoption of Rule Making

This rule making was adopted by the Board on December 2, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 213.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on December 2, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 261—215.1(15F) as follows:

261—215.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Accredited colleges and universities” means any college, university, or institution of higher learning that is accredited by ~~The~~ the Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Bid fees” means fees paid as part of proposing a location for an event.

“Board” means the enhance Iowa board as created in Iowa Code section 15F.102.

“Convention and visitors bureau” or *“CVB”* means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area's facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“District” means a regional sports authority district certified under Iowa Code section 15E.321.

“Financial assistance” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“Infrastructure” means equipment, appurtenant structures, or site development that is related to the operation of a sporting event that is the subject of the project.

“Marketing” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools and tactics.

“Organization” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions, or professional sporting events.

“Professional sporting events” means any sporting events for which the competing athletes receive payment for their participation in such sporting event.

“Program” means the sports tourism program administered pursuant to this chapter.

“Promote” or “promotion” means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“Sporting event” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“Sports tourism program review committee” or “review committee” means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2) “a” and one member from the state at large under Iowa Code section 15F.102(2) “b.”

ITEM 2. Amend rule 261—215.3(15F) as follows:

261—215.3(15F) Eligible projects. Eligible projects must actively and directly promote sporting events for accredited colleges and universities, professional sporting events, and other sporting events in the area served by an eligible applicant as defined in rule 261—215.2(15F). Only projects that promote sporting events occurring in Iowa are eligible for assistance.

215.3(1) An eligible applicant may apply for and receive financial assistance for more than one project. The board may require additional information to substantiate the financial need for awarding more than one project in any fiscal year.

~~**215.3(2)** An eligible applicant may apply for financial assistance for a project that spans multiple fiscal years.~~

~~**215.3(3)**~~ **215.3(2)** An eligible applicant may apply for ~~renewal of~~ financial assistance ~~awarded in a prior year~~ for a project that spans two fiscal years. If financial assistance is approved for two fiscal years, financial assistance will only be provided for the second fiscal year if all applicable contractual requirements are met. ~~The decision as to whether to renew an award shall be at the discretion of the board.~~ When considering whether to ~~renew an award~~ financial assistance for two fiscal years, the board shall evaluate metrics including the amount of revenue generated by ticket sales, the estimated economic impact, and the number of overnight stays at hotels in the city or county where the sporting event is being held. For example, economic impact may be calculated as total estimated attendance multiplied by daily attendee spending multiplied by average length of stay. If an eligible applicant wishes to supply an alternative formula for calculating economic impact, the applicant must supply a credible source for using an alternative formula. The authority may include such metrics and estimates in a program agreement executed pursuant to Iowa Code section 15F.401.

~~**215.3(4)**~~ **215.3(3)** A convention and visitors bureau shall not in the same fiscal year receive financial assistance under the program created in this chapter and financial assistance as part of a district created pursuant to 261—Chapter 38.

~~**215.3(5)**~~ **215.3(4)** An eligible applicant shall demonstrate matching funds in order to receive financial assistance pursuant to this rule. The amount of matching funds that may be required shall be at the board’s discretion. An applicant under the program shall not receive financial assistance in an amount exceeding 50 percent of the total cost of the project.

~~**215.3(6)**~~ **215.3(5)** A city, county, or public organization may use financial assistance received under the program for marketing, ~~and promotions, and infrastructure.~~ Whether an activity or individual cost item is directly related to the promotion of the sporting event shall be within the discretion of the authority.

~~**215.3(7)**~~ **215.3(6)** A city, county, or public organization shall not use financial assistance received under the program as reimbursement for completed projects.

215.3(7) The total amount of financial assistance provided to an applicant in any one fiscal year shall not exceed \$500,000.

ITEM 3. Renumber rules **261—215.4(15F)** to **261—215.6(15F)** as **261—215.5(15F)** to **261—215.7(15F)**.

ITEM 4. Adopt the following new rule 261—215.4(15F):

261—215.4(15F) Eligible and ineligible expenses.

215.4(1) Eligible expenses. Expenses directly related to the active promotion of a sporting event will be eligible for reimbursement under the program. Examples of eligible expenses include, but are not limited to:

- a. Sponsorships;
- b. Payments to vendors;
- c. Advertising;
- d. Equipment rental;
- e. Promotional materials;
- f. Production costs.

215.4(2) Ineligible expenses. Expenses that are not directly related to the active promotion of a sporting event will be ineligible for reimbursement under the program. Examples of ineligible expenses include, but are not limited to:

- a. Bid fees, rights fees, solicitation efforts or lobbying fees;
- b. Travel costs of applicant staff;
- c. Meals, dining, or alcoholic beverages;
- d. Items that are purchased for resale;
- e. Prizes given to participants;
- f. Costs related to infrastructure or ongoing costs of a facility;
- g. Other costs that the board determines to be ineligible.

ITEM 5. Amend renumbered rule 261—215.5(15F) as follows:

261—215.5(15F) Threshold application requirements. To be considered for funding under the ~~sports tourism~~ program, an application must meet the following threshold application requirements:

215.5(1) There must be demonstrated local support for the proposed activity.

215.5(2) A detailed description of the project, outlining the sporting event and the plan for promoting it.

215.5(3) The proposed project budget must be spent on marketing, and promotions, ~~or infrastructure~~ expenses directly related to the promotion of the sporting event.

215.5(4) Detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the sporting event described in the application. Such information shall include the estimated number of spectators and estimated quality and quantity of advertising and media coverage the sporting event will generate. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events and a summary of the advertising and media coverage generated.

ITEM 6. Amend renumbered rule 261—215.6(15F) as follows:

261—215.6(15F) Application process.

215.6(1) Applications for assistance under the ~~sports tourism~~ program shall be submitted to the authority. For those applications that meet the threshold application requirements and the eligibility criteria, the authority shall forward the applications to the board and provide a staff review analysis and evaluation to the sports tourism program review committee and to the board.

215.6(2) All applications to the authority for financial assistance shall be made at least 90 days prior to a sporting event's scheduled date.

215.6(3) When reviewing the applications, the review committee and the authority shall consider, at a minimum, all of the following:

a. Impact of the project on the local, regional, and state economies. Economic impact will be determined by using the following calculation: Applicants will estimate the number of hotel room nights generated by each proposed sporting event and multiply the number of estimated hotel room nights by the average daily room rate for Iowa hotels. The average daily room rate will be provided by the authority based on information obtained from a hotel market data service. Intentionally inflated estimates of attendance or a history of providing inaccurate estimates will negatively affect the scoring of an application.

b. Potential to attract Iowans and out-of-state visitors. Projects that market or promote a sporting event that is new to Iowa will receive a higher score. Established events will receive a lower score.

c. Amount of positive advertising or media coverage the project generates.

d. Quality, size, and scope of the project.

e. Ratio of public-to-private investment.

f. The extent to which the sporting event to be marketed or promoted is unique, innovative, or diverse.

215.6(4) Upon review of the recommendations of the review committee, the board shall make final funding decisions on each application. The board may approve, defer, deny, or modify applications for financial assistance under the program, in its discretion, in order to fund as many projects with the moneys available as possible. The board and the authority may negotiate with applicants regarding the details of projects and the amount and terms of any award. In making final funding decisions pursuant to this subrule, the board and the authority are exempt from Iowa Code chapter 17A.

ITEM 7. Amend renumbered rule 261—215.7(15F) as follows:

261—215.7(15F) Administration.

215.7(1) *Administration of awards.*

a. Each applicant receiving an award of financial assistance from the board shall enter into an agreement with the authority. The agreement shall contain such terms and conditions as the board may place on the award or the authority may deem necessary for the efficient administration of the program established in this chapter. ~~Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.~~ The agreement will also include the terms and conditions under which financial assistance must be repaid or penalties incurred in the event the applicant does not fulfill all obligations under the agreement.

b. These rules and applicable state laws shall be part of the agreement.

c. The applicant must execute and return the contract to the board within ~~45~~ 90 days of the transmittal of the final contract from the board. Failure to do so may be cause for the board to terminate the award.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

e. Awards may be conditioned upon authority receipt and board approval of an implementation plan for the funded project.

215.7(2) Reports. An applicant receiving financial assistance shall provide an annual report to the authority for years in which it receives financial assistance under this rule. The report shall include the information the authority deems relevant. The report shall be submitted in the manner and on forms prescribed by the authority. The authority may perform any reviews or site visits necessary to ensure performance by the applicant.

215.7(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by the authority. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

215.7(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents and all other records pertinent to the sports tourism award for three years after contract closeout. Representatives of the authority shall have access to all recipient records that pertain to sports tourism funds.

215.7(5) *Amendments to contracts.* Any substantive change to a contract shall be considered an amendment. Substantive changes include time extensions, budget revisions and significant alteration of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be approved by the enhance Iowa board. The authority may execute nonsubstantive or ministerial changes to the contract without board approval.

215.7(6) *Project closeout.* Upon expiration of the agreement, the authority shall initiate project closeout procedures.

215.7(7) *Compliance.* If the board finds that an applicant is not in compliance with the requirements of this program or the terms and conditions of the agreement, the board may find the applicant noncompliant. Remedies for noncompliance may include penalties up to and including the return of program funds to the board. Reasons for a finding of noncompliance include but are not limited to the applicant's use of funds for activities not described in the contract, the applicant's failure to complete funded projects in a timely manner, the applicant's failure to comply with applicable state or local rules, or the lack of a continuing capacity of the applicant to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code sections 15F.401 and 15F.402.

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